

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK SAMUEL BAKER,

Defendant.

CR 22-102-BLG-DLC

ORDER

On September 19, 2023, a jury found Baker guilty of the offense of Attempted Sex Trafficking of a Minor, as charged in the Indictment. (Doc. 52.)

On December 27, 2023, Defendant Mark Samuel Baker filed a Motion for New Trial pursuant to Fed. R. Crim. P. 33. (Doc. 72.) Baker moves for a new trial on the grounds of “manifest and egregious ineffective assistance of counsel.” (*Id.* at 1.) On January 5, 2024, the United States filed a Motion to Strike Defendant’s Motion for New Trial. (Doc. 74.) In its motion, the United States argues that Baker’s motion is untimely and ineffective assistance of counsel claims are more appropriately raised on collateral review pursuant to 28 U.S.C. § 2255. (*Id.* at 1-2.) The United States also requests that, should the Court consider the merits of Baker’s motion, the briefing schedule should be stayed to allow for the discovery necessary to fully respond to Baker’s claims. (*Id.* at 2.)

The United States' response to Baker's Motion for New Trial is due by January 11, 2024. Baker's response to the United States' Motion to Strike is due by January 19, 2024. Because resolution of the United States' Motion to Strike may be dispositive of Baker's Motion for New Trial without need for additional discovery, the Court stays briefing on Baker's motion until the United States' motion is resolved.

Baker has also filed a Motion to Dismiss on the Grounds of Outrageous Government Misconduct. (Doc. 76.) In this motion, Baker moves for dismissal of the Indictment in this matter for violation of Baker's due process rights under the Fifth and Fourteenth Amendments. (*Id.*) Although Baker's Motion to Dismiss presents arguments that are somewhat similar to those raised in his Motion for New Trial, it appears that the two motions may be resolved separately. Accordingly, briefing on Baker's Motion to Dismiss (Doc. 76) is not stayed at this time.

The Court also notes that sentencing in this matter is scheduled for February 1, 2024. (Doc. 55.) Neither party has moved to continue sentencing and the Court declines to do so without a request from one or both of the parties and a showing of good cause.

Accordingly, IT IS ORDERED that Defendant Mark Samuel Baker's Motion for New Trial (Doc. 72) is STAYED pending resolution of the United

States' Motion to Strike (Doc. 74).

IT IS FURTHER ORDERED that briefing on the United States' Motion to Strike (Doc. 74) and Baker's Motion to Dismiss (Doc. 76) shall proceed in accordance with D. Mont. L.R. CR 47.2 (Dec. 1, 2023).

IT IS FURTHER ORDERED that sentencing in this matter remains set for February 1, 2024, and all associated deadlines shall proceed as set forth in the Court's schedule order (Doc. 55).

DATED this 8th day of January, 2024.



Dana L. Christensen, District Judge
United States District Court